

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TIMOTHY A. HUTCHINSON, individually and on
behalf of a class of all others similarly situated,

Plaintiff

-against-

12CIV 1073 (HB)

ANTONIO M. PEREZ, PHILIP J. FARACI,
ANTOINETTE P. MCCORVEY, PRADEEP
JOTWANI,

OPINION AND ORDER

Defendants.

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HON. HAROLD BAER, JR., DISTRICT JUDGE:

I have read the papers from the movant who seeks to alter or amend the Court's November 9, 2012 judgement and for leave to file a Second Amended Complaint ("SAC") among other relief. I have also studied the answer to the moving papers as well as the reply. While I share the view that opportunity to amend ought be freely given, I am also aware that this broad grant is circumscribed not only by the Court's discretion but with the limitation of futility and frankly it was that concern that prompted November's decision and judgment.

Further here plaintiff has compounded the problems. After having ample opportunity for an earlier amendment the plaintiff failed to comply with my rules and apparently concluded he should be allowed to go to school on the Court's decision and if perchance he lost he could try again.

Nonetheless I am guided by the governing principles of the Federal Rules which mandates that Federal Judges try cases on their merits and while the proposed contribution by the CW's appears meager, as do many of the other arguments advanced by the plaintiff, I will in the interest of justice amend the judgment to permit a SAC if served and filed within 15 days from the date hereof and in all other respects the motion is denied.

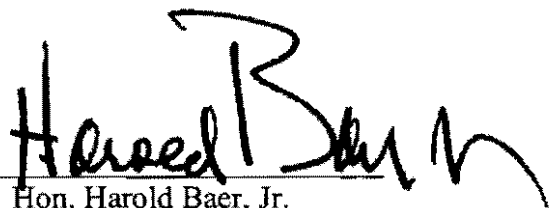
If there is motion practice as well there may be following the SAC you may work out your own timetable. No memorandum shall be more than 15 pages and any reply 5 and the motions will be fully briefed and on my desk by Monday, March 4, 2013.

Both sides to submit proposed amended judgments within 5 days from date hereof

SO ORDERED:

Dated: 1/8/13

New York, New York


Hon. Harold Baer, Jr.
United States District Judge